



Arizona Water Initiative West Basins Planning Area Questions and Answers

Date: January 30, 2016
Time: 3:00 PM to 5:00 PM
Location: Centennial Community Center
69725 Centennial Park Rd.
Wenden, AZ 85357

NOTE: The Centennial Public Library located at 69752 Centennial Road in Salome has Wi-Fi available and numerous computers with Web access to facilitate accessing electronic and web based documents.

1. How can the public learn about well applications?

On the Arizona Department of Water Resources (ADWR) website, the [Well Information](#) page contains information about the process for obtaining well drilling permits. Well drilling application forms and instruction sheets are available on the [Well Permitting](#) webpage.

Most information regarding existing wells can be accessed from [ADWR's Imaged Records Database](#). Well records can be searched by registration number (55-#####) or location (Township-Range-Section).

Complete the following steps to search for a well:

- Under the "Search ADWR's Imaged Records" section, select 'Well Registry Document'
- Enter either the "Registry ID" or "Location", and then select "Search".

2. How does the state issue a well permit?

For the drilling of a new well outside of an Active Management Area (AMA) or for the drilling of a well that pumps not more than 35 gallons per minute within an area of groundwater regulation (AMA), ADWR does not issue well permits. Instead, a person seeking to drill such a well must submit a Notice of Intent to Drill, Deepen, Replace or Modify a Well form.

After the form is filed and found to comply with applicable statutes and rules, ADWR will issue a drill card to the well driller. The well must be drilled by a licensed driller and the well must be constructed to prescribed minimum standards. After drilling, the driller is required to submit a Driller Report, and the well owner is required to submit a Pump Installation Report to ADWR.

Within an area of groundwater regulation, also known as an Active Management Area, a person seeking to drill a new well that has the capacity to pump over 35 gallons per minute, must file an Application for Permit to Drill or Operate a Non-Exempt Well Within an Active Management Area. More information about ADWR's process in reviewing such applications can be found [here](#).

3. Can the public protest a well application?

Generally no. ADWR is not required to provide public notice of the filing of a Notice of Intent to Drill, Deepen, Replace or Modify a Well. In the context of areas of groundwater regulation, also known as Active Management Areas (AMAs), ADWR independently reviews applications for permits to construct new wells that have a capacity to pump 35 gallons per minute or more to ensure that withdrawals from the proposed well will not cause unreasonably increasing damages to surrounding land or other water users, but has no legal obligation to receive or consider objections filed by the public.

4. If ADWR is to start requiring meters on wells, will ADWR pay for those meters?

Under existing law, ADWR is not required to purchase or otherwise pay for meters for persons required under the Groundwater Code to meter withdrawals.

5. How do we go about requiring wells to be metered?

Under current law, only withdrawals from certain wells inside of Active Management Areas (AMA) and Irrigation Non-Expansion Areas (INAs) and wells associated with Community Water Systems must be metered. A [map](#) showing AMA and INA boundaries is available on ADWR's website. *Please see question 17 on the process for designating an AMA or INA.*

6. What impact will regulations have on local farmers, ranchers, and domestic well owners?

The answer to this question assumes that the question refers to the regulatory requirements either within an Active Management Area or an Irrigation Non-Expansion Area.

Within an Active Management Area (AMA):

- The irrigation of new acres is prohibited. Only acres that have been irrigated within the five years preceding the initiation of the procedures to designate an AMA or the call for the election and which have not been retired from irrigation may be irrigated after an AMA is formed.
- A groundwater right or withdrawal permit is required to withdraw groundwater from a non-exempt well (equipped to pump more than 35 gallons per minute).

- Groundwater rights and permits generally have annual volumetric limitations
- There are well spacing requirements
- There are metering and annual water withdrawal reporting requirements
- There are assured water supply requirements imposed for proposed development
- Groundwater withdrawal fees and water quality assurance revolving fund fees are imposed for non-exempt withdrawals
- There are restrictions on filling and re-filling large bodies of water
- There are mandatory conservation requirements for municipal, agricultural and industrial users.

Within an Irrigation Non-Expansion Area (INA):

- The irrigation of new acres is prohibited. Only acres that have been irrigated within the five years preceding the initiation of the procedures to designate an INA may be irrigated after an INA is formed.
- Most withdrawals from non-exempt wells (equipped to pump over 35 gallons per minute) must be metered.
- Owners withdrawing groundwater from non-exempt wells are required to file annual water use reports with ADWR.

7. Will residents be subject to fees on minimal water usage?

Within Active Management Areas (AMAs), users who pump groundwater from non-exempt wells (wells equipped to pump over 35 gallons per minute) are required to pay an annual groundwater fee. The fee is used to offset the cost of managing the groundwater resource and to fund the augmentation efforts of the Arizona Water Banking Authority. Withdrawal fees also may be used for conservation assistance, augmentation projects and retirement of irrigated land. Outside of AMAs, no such fee is imposed.

8. Will regulations stop municipalities from buying water rights from other counties to support development outside of those counties (i.e. Phoenix)?

Provisions for groundwater transportation are located in Article 8 and 8.1 of the Groundwater Code. In general transportation of groundwater from a basin outside of an Active Management Area (AMA) into an AMA is prohibited with four exceptions: So long as certain requirements are met, by statute, water may be transported from the McMullen Valley Groundwater Basin into the Phoenix AMA, from the Butler Valley Groundwater Basin into any AMA, from the Harquahala INA into any AMA, and from the Big Chino Sub-basin of the Verde River Groundwater Basin into the Prescott AMA.

9. Who owns groundwater in Arizona?

In Arizona, groundwater in an aquifer is considered a public resource. The Arizona Supreme Court has held that “there is no right of ownership of groundwater in Arizona prior to its capture and withdrawal from the common supply and that the right of the

owner of the overlying land is simply to the usufruct of the water.” *Chino Valley v. Prescott*, 131 Ariz. 78, 82, 638 P.2d 1324, 1328 (Ariz. 1981). In the same case, the Arizona Supreme Court held that the state legislature may regulate groundwater withdrawals and use under its police power, and that the regulations contained in the 1980 Groundwater Management Act (Arizona Revised Statutes §§ 45-401, et seq.) did not deny landowners due process of law or require that they be paid compensation for any possible diminution of their rights.

10. Does Arizona follow the principle of “first in time, first in right”?

In Arizona, surface water is subject to the doctrine of prior appropriation meaning that the first person to put the water to beneficial use has a right to use water that is superior to later appropriations. However, Arizona has a bifurcated legal system with respect to surface water and groundwater. Groundwater in Arizona is not subject to the doctrine of prior appropriation.

11. What qualifies as a beneficial use in the context of groundwater withdrawals?

A.R.S. 45-453 addresses groundwater rights and uses outside of the Active Management Areas and holds that the water must be put to reasonable and beneficial use. Arizona law does not provide a statutory list of beneficial uses of groundwater but does provide a statutory list for surface water: domestic, municipal, irrigation, stock watering, power, recreation, wildlife including fish, non-recoverable water storage and mining uses.

12. Who is responsible for letting information become outdated and what can the local residents do to help update the information?

In its presentation of January 30, 2016, ADWR noted that the projected water demand data that is currently included within the Arizona’s Strategic Vision for the West Basins Planning Area is outdated. This data was developed out of the Water Resources Development Commission work and had a baseline data year of 2005. In areas outside of Active Management Areas and Irrigation Non-Expansion Areas, where no requirements for annual water use reporting exists, there is limited availability of information regarding water use with the exception of the work done by the United States Geological Survey (USGS). The Planning Area Process is intended to work with local stakeholders to develop use and projected water demand data for the area.

ADWR’s hydrologic data, however, is not outdated and ADWR performs numerous annual well measurements in each groundwater basin at each of our Groundwater Site Index (GWSI) wells. Please refer to the table on slide 16 of the [West Basins Water Use Hydrostats](#) to see a list of the number of wells that have been measured in each basin in the planning area through 2015. The last well measurements occurred in November and December 2015.

Additionally, this spring ADWR will undertake a sweep of groundwater level measurements in the Ranegras Plain Basin. During this time, ADWR would appreciate

the cooperation of well owners by providing information and/or access to their wells for measurement if requested by our staff. The data collected will be analyzed and used to develop a groundwater monitoring report that summarizes the results of the groundwater level sweep and will include detailed maps to support scientific and water management planning efforts.

13. How long will it take to get the water usage information up to date?

Water use estimates for the rural basins in the state are updated annually through a cooperative program between the ADWR and the USGS. Water use data are published annually and are available from the USGS at <http://az.water.usgs.gov/projects/9671-9DW/>.

However, through the Planning Area Process, ADWR staff will work with local entities to refine current water demand numbers and develop projections of demand over the next 25 and 50 years. It is anticipated that demand data will be developed over the next six to nine months.

This year USGS staff will be performing field verifications of cropped acreage, crop type and irrigation methods in the following groundwater basins: Butler Valley; Ranegras Plain; McMullen Valley and Harquahala Irrigation Non-Expansion Area. USGS field work will occur from the spring until late summer/early fall. Some field work may also occur in the winter, depending on the extent of double cropping that may be occurring. The USGS crop verification studies are used to corroborate the estimates of cropped acreage, crop type and irrigation method that are available from remote sensing data and help improve the overall accuracy of annual agricultural water use estimates. Typically, data for a calendar year is available after March or April of the following calendar year.

14. When properties run out of water they become “non-buildable.” Has the state come up with a way to value those properties?

As a general matter, ADWR is not required to and has no authority to appraise property. It should be noted that there are many areas of the state where individual properties do not have access to water through a private well, often due to the depth of groundwater in those locations. In these areas, water hauling and individual storage tanks are often used.

15. What are the laws involving transporting water?

Please see the answer to Question No. 8 above.

16. Does mining and agriculture have priority to water rights over domestic users?

As noted above, groundwater and surface water are treated differently under Arizona law in many circumstances. In the context of surface water, priority is established with reference to the date of appropriation.

In the context of groundwater, within Active Management Areas (AMAs), certain water users may obtain grandfathered rights to use groundwater for particular purposes based on the person's use of the water at the time of the establishment of the AMA, and a person may be subject to varying regulatory requirements depending on his or her approved type of use. Outside of AMAs, no statute establishes priority for certain beneficial uses of groundwater over others.

17. What action is required to declare an area an Irrigation Non-Expansion Area (INA) or an Active Management Area (AMA)?

Procedures to designate an INA may be initiated by the ADWR Director or by petition signed by either: 1). Not less than twenty-five irrigation users of groundwater, or one-fourth of the irrigation users of groundwater within the boundaries of the groundwater basin or sub-basin specified in the petition *OR* 2). Ten per cent of the registered voters residing within the boundaries of the groundwater basin or sub-basin specified in the petition as of the most recent report compiled by the county recorder. After procedures for designation are initiated, the Director is required to hold a public hearing and may designate an INA if the Director determines that: 1) There is insufficient groundwater to provide a reasonably safe supply for irrigation of the cultivated land in the area at the current rates of withdrawal *AND* 2) The establishment of an AMA is not necessary.

Subsequent AMAs can be established by the ADWR Director after public hearing if the Director determines that any of the following exists: 1) Active management practices are necessary to preserve the existing supply of groundwater for future needs; 2) Land Subsidence or fissuring is endangering property or potential groundwater storage capacity; *OR* 3) Use of groundwater is resulting in actual or threatened water quality degradation. Alternatively, a subsequent AMA can be established by election held upon submission of a petition from ten per cent of the registered voters residing within the boundaries of the proposed AMA as of the current report compiled by the county recorder.